

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA, )  
 ) Case No. 1:23-MJ-1667  
 ) (JLS) (JJM)  
 Plaintiff, )  
 )  
 vs. ) December 12th, 2023  
 )  
 JOHN ERMIN, )  
 )  
 Defendant. )

**TRANSCRIPT OF BAIL HEARING  
BEFORE THE HONORABLE H. KENNETH SCHROEDER, JR.  
UNITED STATES MAGISTRATE JUDGE**

APPEARANCES:

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Proceedings recorded with electronic sound recording,  
transcript prepared with computer-aided transcription.

09:35AM 1 THE CLERK: This is United States v. John Thomas  
04:02PM 2 Ermin, docket number 23-MJ-167. This is the appearance of  
04:02PM 3 counsel and detention hearing. Assistant United States  
04:02PM 4 Attorneys Joseph Tripi, Nicholas Cooper, and Casey Chalbeck  
04:02PM 5 appearing on behalf of the government. George Muscato  
04:02PM 6 appearing with defendant. United States Probation Office  
04:02PM 7 Khalid Emerson.

04:02PM 8 THE COURT: Good afternoon.

04:02PM 9 MR. TRIPI: Good afternoon, Your Honor.

04:02PM 10 MR. MUSCATO: Good afternoon, Your Honor.

04:02PM 11 THE COURT: We're here for a detention hearing. Are  
04:02PM 12 we ready to proceed?

04:02PM 13 MR. TRIPI: Yes, Your Honor.

04:02PM 14 THE COURT: Mr. Muscato?

04:02PM 15 MR. MUSCATO: Yes, Your Honor. Sorry.

04:02PM 16 MR. TRIPI: May I proceed, Your Honor?

04:02PM 17 THE COURT: Yes.

04:02PM 18 MR. TRIPI: Good afternoon. Your Honor, as you know  
04:02PM 19 from our initial appearance, there are several bases the  
04:03PM 20 government is moving for detention under. Eighteen US Code  
04:03PM 21 3142(f)(1)(E) relating to the defendant's possession of  
04:03PM 22 firearms, 18 US Code 3142(f)(2)(A), relating to his flight  
04:03PM 23 risk, and 18 US Code 3142(f)(2)(B) regarding his risk of  
04:03PM 24 obstruction of justice.

04:03PM 25 As this Court well knows, this criminal complaint is

1 merely the mechanism by which the defendant comes before the  
2 Court. But, when assessing his dangerousness or his risk of  
3 flight, the Bail Reform Act has several factors that this  
4 Court considers, and most of them go well beyond the four  
5 corners of the complaint; that is, the nature and  
6 circumstances of the offense, including whether the crime  
7 involves a firearm; the weight of the evidence; the history  
8 and characteristics of the offender; and the nature and  
9 seriousness of the danger the defendant would pose to any  
10 person or the community.

11 Now, I'll be proffering a number of exhibits as I go  
12 along, Your Honor, and I think this Court will agree when I'm  
13 done that each of those factors weighs in favor of detention.  
14 But, just taking it back for a moment, to sort of a 30,000-  
15 foot view. What brings this defendant to court was a search  
16 warrant, series of search warrants, that were authorized by  
17 this Court that were executed by the Federal Bureau of  
18 Investigation.

19 Those search warrants encompassed several locations both  
20 associated with this defendant and others associated with the  
21 defendant. Specifically, there was search warrant executed at  
22 the defendant's residence at 41 Richmond in Lancaster, New  
23 York. There was a search warrant executed at the Outlaws  
24 Motorcycle Club clubhouse compound in the City of Buffalo.  
25 There was search warrant executed at a residence associated

04:05PM 1 with a member of the Rare Breed Motorcycle Club, a support  
04:06PM 2 club for the Outlaws. And there were two search warrants  
04:06PM 3 executed at clubhouses associated with the Rare Breed  
04:06PM 4 Motorcycle Club, again, a support club for the Outlaws  
04:06PM 5 Motorcycle Club.

04:06PM 6 In total, just as it relates to this defendant, there were  
04:06PM 7 16 firearms, ammunition, dozens of blunt instruments and  
04:06PM 8 cutting weapons found in his residence. Overall, the searches  
04:06PM 9 that this Court authorized that day totalled 50 firearms,  
04:06PM 10 thousands of rounds of ammunition, approximately over \$50,000  
04:06PM 11 in cash believed to be the proceeds of criminal and unlawful  
04:07PM 12 activity, various types of drugs, and even a human skull at  
04:07PM 13 one location.

04:07PM 14 Now, this defendant, Your Honor, and the defendant that  
04:07PM 15 you'll be hearing from next or having a court appearance next  
04:07PM 16 Scott Barnes, they're not just any regular criminals charged  
04:07PM 17 with a 922(g) offense in the Western District of New York or  
04:07PM 18 anywhere. They are ranking members of the Outlaws Motorcycle  
04:07PM 19 Club.

04:07PM 20 And I'll proffer to the Court Government Exhibit 8A. It  
04:08PM 21 will be up on your screen, Your Honor. This is a chart that  
04:08PM 22 shows you the organizational structure of the Outlaws  
04:08PM 23 Motorcycle Club, which is a motorcycle club that has been  
04:08PM 24 involved for decades in racketeering-related activity,  
04:08PM 25 murders, drug trafficking, prostitution. They're known as the

1 American Outlaws Association or the AOA. However, that's  
2 their public-facing moniker. Privately, that stand for Only  
3 Aryans Allowed. And you'll hear a lot about the white  
4 supremacist and Nazi rhetoric that they promote in the context  
5 of their club.

6 Now, what makes these two individuals and Mr. Ermin  
7 specifically particularly dangerous is, at this Outlaws  
8 organizational structure, you have a national president at the  
9 very top. And, right under that, you have a national  
10 enforcer. This Court today had in front of it the national  
11 president of the Outlaws Motorcycle Club. And, after this,  
12 you will be the national enforcer of the Outlaws Motorcycle  
13 Club. It is a racist, para-military organization that's  
14 highly structured and very dangerous.

15 By virtue of their positions in this club, those two  
16 individuals have risen through the ranks of an organization  
17 that values violence, loyalty -- loyalty not in a context of  
18 every day citizenry, but loyalty in the context of people who  
19 don't snitch, people who don't cooperate with law enforcement,  
20 and people who protect their club above all else, all threats,  
21 real and perceived.

22 And a big part of that is retaliating and causing  
23 retaliations against witnesses or would-be witnesses. The  
24 Outlaws' national motto since, I believe, about 1969, and  
25 you'll see this in a tattoo on Mr. Ermin's stomach and on a

04:11PM 1 shirt that he wears is, "God Forgives. Outlaws Don't". That  
04:11PM 2 means they direct violence towards people that threaten their  
04:11PM 3 organization that's been in existence for a long time.

04:11PM 4 Another moniker they're known to say and promote on their  
04:11PM 5 shirts, and you'll see photos of this, you'll see photos of  
04:11PM 6 Mr. Ermin wearing this shirt, is "snitches are a dying breed".  
04:11PM 7 That means this kill snitches. They kill informants, Your  
04:11PM 8 Honor. It's particularly concerning when I show you  
04:12PM 9 photographs of some of the paperwork, law-enforcement  
04:12PM 10 sensitive paperwork, found as a result of the searches that  
04:12PM 11 this Court rightfully authorized.

04:12PM 12 Now, to highlight the point, two prior national presidents  
04:12PM 13 of the Outlaws. Harry "Taco" Bowman, who died in April of  
04:12PM 14 2019, Mr. Ermin attended his wake, and texted photos lovingly  
04:12PM 15 of Mr. Bowman. He was charged with multiple counts of RICO  
04:12PM 16 murder, and he died in prison of cancer.

04:12PM 17 One of the text messages that Mr. Ermin sent Peter Gerace,  
04:12PM 18 a defendant in a case pending in this courthouse, and the  
04:13PM 19 owner of Pharaoh's where Mr. Ermin was employed, was a picture  
04:13PM 20 of all the Outlaws at that person's funeral, indicating that  
04:13PM 21 he respected the amount of people that showed up at that  
04:13PM 22 funeral; respected Mr. Bowman for the amount of people that  
04:13PM 23 showed up at that funeral.

04:13PM 24 Another national president is an individual named Jack  
04:13PM 25 Rosga. I might be pronouncing it wrong. And that's an

04:13PM 1 individual who has written letters to both Mr. Barnes who  
04:13PM 2 you'll hear, you'll hear his case next, and to Mr. Ermin.

04:14PM 3 So, one of the letters that was found in the Outlaws'  
04:14PM 4 clubhouse, and you'll hear more about this later, I believe,  
04:14PM 5 when Mr. Cooper proffers in the Barnes detention hearing, was  
04:14PM 6 from this individual, Jack Rosga. And this is the DOJ press  
04:14PM 7 release for his conviction when he was sentenced to 20 years  
04:14PM 8 in prison out of the Eastern District of Virginia.

04:14PM 9 Now, Jack Rosga was known as Milwaukee Jack. He was a  
04:14PM 10 prior national president. And, in the press release, the DOJ  
04:15PM 11 said he led an Outlaws Motorcycle Gang that was violent at the  
04:15PM 12 core. As the gang's national president, he declared war on  
04:15PM 13 rival Hell's Angels and ordered violent acts on rival gang  
04:15PM 14 members.

04:15PM 15 Now, after that individual, there was another national  
04:15PM 16 president who's -- recently, we found a letter -- retired from  
04:15PM 17 the Outlaws due to medical issues, and then you have  
04:15PM 18 Mr. Ermin. So, that is the ship that he took over stewardship  
04:15PM 19 of and he has legions of Outlaws who would cause a grave risk  
04:15PM 20 of obstructionism to witnesses, perceived witnesses, potential  
04:16PM 21 witnesses against Mr. Ermin, the Outlaws, and anyone  
04:16PM 22 associated with the Outlaws that could harm that organization  
04:16PM 23 such as Peter Gerace, and the activities at Pharaoh's  
04:16PM 24 Gentlemen's Club.

04:16PM 25 The letter from this Mr. Rosga stated that he was looking

04:16PM 1 forward -- he gets released, I believe, in 2027. He was  
04:16PM 2 looking forward to seeing Tommy O. 1 percenter. It was in a  
04:16PM 3 letter to Mr. Barnes when he gets out.

04:16PM 4 So, the Outlaws, Your Honor, when you're assessing risk of  
04:16PM 5 flight, think of this. They're in 19 countries. They have  
04:17PM 6 dozens of chapters in those countries. They're all over  
04:17PM 7 Europe, England Ireland, Germany, Spain, Italy, France,  
04:17PM 8 Belgium. They're in Canada. They're in Sweden. They're in  
04:17PM 9 South America. Under Mr. Ermin's stewardship, they opened up  
04:17PM 10 chapters in Brazil, and you'll see pictures about that where  
04:17PM 11 people from all over the country send Mr. Ermin information  
04:17PM 12 about who might be an informant or a snitch.

04:17PM 13 They have chapters in Asia, Thailand, Philippines, Japan,  
04:18PM 14 Russia, Serbia, Austria, Czechia, Poland. That's just out of  
04:18PM 15 the country; numerous chapters all over the world. In the  
04:18PM 16 United States, they have approximately 136 listed chapters in  
04:18PM 17 25 different states. There's a very high risk of flight here.  
04:18PM 18 They can go anywhere.

04:18PM 19 So, let's talk about becoming an Outlaw, just what it  
04:18PM 20 means by virtue of the fact that they're sitting here is that  
04:18PM 21 they've risen through the ranks. They've committed to the 1  
04:18PM 22 percenter criminal lifestyle. That's a lifestyle where  
04:18PM 23 beatings are regular, only violence is respected, and women  
04:18PM 24 are property; where drug use and distribution are routine, and  
04:19PM 25 where clubhouses are havens for all that activity to happen



04:19PM 1 behind closed doors at night when regular society is likely  
04:19PM 2 sound asleep.

04:19PM 3 They set up a structure by which they're insulated from  
04:19PM 4 criminal activity. And this is consistent with the search  
04:19PM 5 warrant that this Court signed and the Attachment B that they  
04:19PM 6 now have which permitted law enforcement to look for  
04:19PM 7 information regarding the relationship between the Rare Breed  
04:19PM 8 and the Outlaws.

04:19PM 9 They've got several support clubs that are available to  
04:19PM 10 them to aid their criminal activity and insulate them from  
04:20PM 11 criminal behavior -- or criminal liability. Those include the  
04:20PM 12 Black Pistons, the Chosen Few, the Rare Breed and others in  
04:20PM 13 this area. Nationwide, they have legions of others. As the  
04:20PM 14 dominant 1 percenter club in this area, other clubs have to  
04:20PM 15 get permission for the Outlaws to even open up, and their  
04:20PM 16 territory in Western New York, Buffalo area, and surrounding  
04:20PM 17 suburbs are controlled by the Outlaws.

04:20PM 18 I'd like to pivot a little bit, though, and talk to you  
04:20PM 19 about the nexus that Mr. Ermin has to the activity at  
04:20PM 20 Pharaoh's Gentlemen's Club. That case involves numerous acts  
04:20PM 21 of the witness tampering, charged and uncharged, to include  
04:21PM 22 the placement of dead rats on people's residences, to include  
04:21PM 23 an assault on a federal witness. Not alleging that Mr. Ermin  
04:21PM 24 committed that assault, but I'm giving you an example of some  
04:21PM 25 of the issues that have happened in that case. There are

04:21PM 1 allegations of corruption, drug distribution, sex trafficking  
04:21PM 2 through force, fraud, and coercion. Mr. Ermin is employed at  
04:21PM 3 Pharaoh's Gentlemen's Club as the manager and several other  
04:21PM 4 Outlaws are employed there as well. So, they have a very  
04:21PM 5 significant interest in anyone who might incriminate them vis  
04:21PM 6 a vie the conduct occurring the Pharaoh's or elsewhere.

04:22PM 7 Here's how Mr. Ermin and the Outlaws view snitches.

04:22PM 8 THE COURT: Don't talk while you're away from the  
04:22PM 9 mic.

04:22PM 10 MR. TRIPI: I'm sorry. Here's how Mr. Ermin and  
04:22PM 11 others in the Outlaws view snitches. So, what I'm going to  
04:22PM 12 show you first, Your Honor, are items that were seized from  
04:22PM 13 Mr. Ermin's personal residence, and his personal area, and it  
04:22PM 14 appears to be directives to others.

04:22PM 15 So, the heading of this note is, nobody talks. Everybody  
04:22PM 16 walks. It says, make sure they know not to talk if arrested,  
04:22PM 17 shot, stabbed, beat, to cops, or in court. If they don't  
04:23PM 18 understand this, they don't need them. And I think that  
04:23PM 19 encapsulates the mind set of your rank and file Outlaws. He's  
04:23PM 20 the boss of them all.

04:23PM 21 Talk about more law enforcement consciousness. Another  
04:23PM 22 note he has, he writes -- we believe this it to be him. His  
04:23PM 23 handwriting was in his personal area of his house -- jail  
04:23PM 24 letters, phone, visiting rooms, it's dry snitching. It ties  
04:23PM 25 our hands to include phones, texts, email, social media, dry

04:23PM 1 snitching, pillow talk, discussing in front of citizens,  
04:24PM 2 cunts, dry snitching. That's a used a word to describe  
04:24PM 3 females. Awful.

04:24PM 4 So, not only are they concerned about people who actually  
04:24PM 5 flip and become cooperators as identified by some of the very  
04:24PM 6 sensitive law enforcement documents that Mr. Ermin and the  
04:24PM 7 club have gotten their hands on through some means unknown at  
04:24PM 8 this time.

04:24PM 9 Another insight into the mindset, this was seized from Mr.  
04:24PM 10 Ermin's residence. You can see he's on the right. He's  
04:25PM 11 wearing a shirt that says, "Free Taco. America's most wanted  
04:25PM 12 Outlaw". Again, that's the reference to Taco Bowman who was  
04:25PM 13 convicted of multiple racketeering murders and ultimately died  
04:25PM 14 in federal prison.

04:25PM 15 Another photo that was inside his residence, the details  
04:25PM 16 aren't important, Judge, but you can begin to see how  
04:25PM 17 committed he is to that "God Forgives Outlaws Don't" mantra.  
04:25PM 18 The GFO you can make out is tattooed on his stomach. You  
04:25PM 19 can't really see the D. You see the G, the F, the O, and  
04:25PM 20 you're missing the D.

04:25PM 21 Also in his residence, I mentioned snitches are a dying  
04:26PM 22 breed. There's a T-shirt that says it. Guns firing out.  
04:26PM 23 This is the motto that they live by, Your Honor, for any  
04:26PM 24 within that threatens their criminal organization. And for  
04:26PM 25 good measures, Exhibit 2F is Mr. Ermin wearing said shirt.

04:26PM 1 He's on the right.

04:26PM 2 So, I just laid down Government Exhibits 2A through F  
04:26PM 3 inclusive on the ELMO just for record purposes. Previously,  
04:26PM 4 the exhibits were Government Exhibit 8A, and Government  
04:26PM 5 Exhibit 8B. Sorry I didn't call those out earlier.

04:27PM 6 Another example similar to what we find in Mr. Ermin's  
04:27PM 7 personal residence, in the clubhouse on Northumberland, I'm  
04:27PM 8 going to show you a series of exhibits that further solidify  
04:27PM 9 how they view government informants and people who talk.

04:27PM 10 Here's Government Exhibit 17A. This was over the bar area  
04:27PM 11 at the clubhouse. You have a skeleton of a dead rat with a  
04:27PM 12 ring that you cant really see from the photo but it says 1  
04:27PM 13 percenter on it. From a noose hanging from an Outlaws 1  
04:28PM 14 percent patch the imagery is immistakable. Rats die.

04:28PM 15 Now, put that in context, Your Honor, of the warrants that  
04:28PM 16 you authorized, the Attachment B that they're now aware of.  
04:28PM 17 They know they're being investigated, and some of the things  
04:28PM 18 that Attachment B allowed us to search for was evidence  
04:28PM 19 related to witness tampering and the death of a federal  
04:28PM 20 witness.

04:28PM 21 They have more shirts like this in their clubhouse.  
04:28PM 22 Snitches are a dying breed. They have hats that say, "Talk  
04:28PM 23 shit, get shit" and "Snitches get stitches" and more of the  
04:28PM 24 same. That was Government Exhibit 17 A through D inclusive,  
04:29PM 25 Your Honor.

1 So those items from the clubhouse mirror many of the items  
2 that were seized from Mr. Ermin's residence and they all lead  
3 to the unmistakable conclusion that the Outlaws will harm  
4 informants. You know, one of the things Crystal Quinn stated  
5 before she died, while she was a government cooperator, was  
6 that she was afraid the Outlaws would kill her as a result of  
7 her cooperation. It seems like her fears, based upon the  
8 imagery that I've just shown this court, were well-founded.

9 Back to Mr. Ermin's residence. I mentioned Taco Bowman,  
10 the prior leader. This is in his bedroom, Exhibit 5A. It's  
11 essentially a shrine to probably the most notorious Outlaws  
12 member ever, and it speaks to this defendant's dangerousness  
13 and his mindset. If this is his God, if this is someone he  
14 followed to the end of time, that's the person you're are  
15 dealing with today; controlling and commanding legions of  
16 others who they make sure think the same way. It doesn't get  
17 more dangerous than the individual in your courtroom today.

18 Exhibit 5B, this is patches if I can get it to un-blur.  
19 Patches in the defendant's residence protected by Outlaws,  
20 American Outlaw Association or Only Aryans Allowed. And then,  
21 there's a long patch here that I'm not going to be able to get  
22 all the letters, but it stands for pill popping, dope smoking,  
23 pussy eating, and then the rest of the letters, Judge, I can't  
24 figure out. But pill popping, we have information that  
25 Mr. Ermin has supplied pills to individuals. Dope smoking, he

04:32PM 1 acknowledges being a user of marijuana. That was found in his  
04:32PM 2 house. And then, the rest of it is consistent with the P. E.,  
04:32PM 3 how they treat women, which we'll get into a little bit later.  
04:32PM 4 So, that's Exhibit 5B. And I apologize I don't know the rest  
04:32PM 5 of the letters. By the time of trial, we'll certainly know.

04:32PM 6 But you want to talk about more of the nexus to Pharaoh's  
04:32PM 7 and more of a nexus to why this defendant was highly motivated  
04:32PM 8 to potentially silence any witnesses against Mr. Gerace,  
04:33PM 9 here's a photo, Government Exhibit 6A, taken during an  
04:33PM 10 unsanctioned party that Mr. Gerace had while on pretrial  
04:33PM 11 release last Labor Day. And you see Mr. Ermin and Mr. Barnes  
04:33PM 12 in the back yard. Now, Mr. Barnes is a felon. I know he  
04:33PM 13 wasn't supposed to be at Mr. Gerace's house. And Mr. Ermin's  
04:33PM 14 wearing a shirt. I'll show you what it says in a moment.  
04:33PM 15 Here's 6B. And, in case it's unclear, I typed in the box next  
04:33PM 16 to it, the acronym right on his shirt, "God Forgives Outlaws  
04:33PM 17 Don't".

04:33PM 18 Now, of course, this not probation's fault for their  
04:33PM 19 recommendation. They don't know any of this information. So,  
04:34PM 20 they couldn't have waited. And that's why this Court  
04:34PM 21 shouldn't put any stock -- no offense to Probation, but it  
04:34PM 22 shouldn't put any stock in the recommendation here. This is a  
04:34PM 23 criminal organization that's too large, too complex and these  
04:34PM 24 facts are too convoluted 15-minute probation interview to have  
04:34PM 25 any weight.

1 Just to give you some general idea of what the clubhouse  
2 looked like, Your Honor, you can see their nationwide reach  
3 and their international reach. So, you have Outlaw flags from  
4 Alabama, Rhode Island, Vermont, showing Outlaws from all over  
5 the country. You also have a flag -- that was 15A. Here's  
6 15B -- regarding their support club, the Black Pistons, in  
7 south Atlanta, the Black Pistons in Illinois; also, in and of  
8 itself, a 1 percent club.

9 Think of it as the AAA team for a major legal baseball  
10 squad. You have to be a really good player on that AAA team  
11 to make it to the major league. The Outlaws, led by Mr.  
12 Ermin, are the major leagues. And, ultimately, he decides if  
13 you make the jump to the big leagues.

14 Fifteen C. Talk about law enforcement consciousness.  
15 They post signs. This is just one example. Absolutely no  
16 cell phone use in the clubhouse. The sign continues, if you  
17 need to use the phone, get a member to let you outside because  
18 anyone who goes into an Outlaw clubhouse has to turn in their  
19 phone, not bring their phone, cannot touch the door. So,  
20 think about some movies you might have watched. Now you can't  
21 leave. That's literally how it is in an Outlaws clubhouse.  
22 You can't walk out on your own.

23 More imagery, 15D. Support your local Outlaws on a mug  
24 with a gun pointing at people. Fifteen E, another picture of  
25 the sign, attention, no cell phone use. Same sign posted on

04:36PM 1 the door reminding everyone. Imagery of brass knuckles and  
04:37PM 2 I'm not even showing you all the blunt force instruments and  
04:37PM 3 other weapons that are non-firearm related, Your Honor.  
04:37PM 4 Getting back to Pharaoh's and law enforcement documents,  
04:37PM 5 Mr. Ermin, from his residence, was certainly tracking  
04:37PM 6 developments in the Pharaoh's case. He kept the newspaper  
04:37PM 7 article, this is Exhibit 3A, written by The Buffalo News. The  
04:37PM 8 headline is, Pharaoh's manager in alleged (inaudible).  
04:41PM 9 And then also found in his residence, Exhibit 3B, was a  
04:41PM 10 ledger for legal expenses in the year of 2021. So, this is  
04:41PM 11 the same year that the second superseding indictment in the  
04:41PM 12 Gerace case was returned targeting Pharaoh's, Gerace,  
04:41PM 13 Bongiovanni. This is legal expenses during that year.  
04:41PM 14 And it looks like they've got a P.A.C.E.R. account. We  
04:42PM 15 all know from being attorneys that's how people monitor cases.  
04:42PM 16 And, sometimes, you can infer whether someone is cooperating  
04:42PM 17 or not based upon the sequencing of dockets. At this court  
04:42PM 18 might recall, as it relates to Ms. Quinn, there were  
04:42PM 19 adjournments in her criminal complaint prior to her death.  
04:42PM 20 That's not all. Although Exhibits 3A and B were  
04:42PM 21 information found in Mr. Ermin's residence, there's more of a  
04:42PM 22 nexus to Pharaoh's from the Outlaws clubhouse. Here's Exhibit  
04:42PM 23 12A. A Pharaoh's shirt was found, marked as item 1, in the  
04:42PM 24 photo. Pharaoh's Buffalo, New York. And 12B is a Pharaoh's  
04:43PM 25 Gentlemen's Club banner that was at the property.



1 Now, I want to show you what's in a pile of seriously  
2 concerning information, what might be the most concerning,  
3 even before you get to the guns and the weapons, these are  
4 going to be law enforcement sensitive documents from all over  
5 the country to include here in the Western District of New  
6 York found in Mr. Ermin's residence.

7 Specifically, in the case of Gerace, there's a sealed  
8 indictment. What's significant about that, Judge, is, if you  
9 go on to P.A.C.E.R., the sealed cover page is not on the  
10 publicly-available indictment. So, they got a hard copy from  
11 someone associated with Defendant Gerace, because I handed out  
12 those copies in court that had sealed cover page. And they  
13 ended up in the national president of the Outlaws' residence.

14 I suppose once it's unsealed, that's fine, that's not a  
15 crime, but in the context of what's happening here is what's  
16 been proffered about how this organization operates and  
17 snitches, it should give this Court graves concerns of the  
18 risk of obstructionism that will continue upon release.

19 These other documents are search warrant documents; not  
20 for Mr. Ermin's residence, but for another Outlaw who works at  
21 Pharaoh's who house was searched in 2021, PJ Resolowski, who  
22 ironically had his house searched again this past week, the  
23 other day, and who was charged this past week in a case  
24 pending before Judge McCarthy. But, as far back as 2021,  
25 Mr. Ermin was monitoring that individual's case as well. And

04:45PM 1 then, you could see Exhibit 1A, 1B. There were a number of  
04:45PM 2 warrants. One C, more Resolowski-related warrants. One B is  
04:45PM 3 a close up of the indictment. One E, this is another warrant  
04:45PM 4 regarding a vehicle related to Resolowski. One F, more  
04:46PM 5 Resolowski-related warrants. One G, same thing.

04:46PM 6 Now, it would seem that Mr. Resolowski was likely under  
04:46PM 7 orders to turn over all paperwork related to his case so that  
04:46PM 8 the Outlaws could know what was going on with him and whether  
04:46PM 9 they had a cause to be concerned about Mr. Resolowski.

04:46PM 10 Now, 1H is a little different. This shows you how Outlaws  
04:46PM 11 from literally all over the globe send money to Mr. Ermin. I  
04:46PM 12 believe this was a period of time when he had COVID and he was  
04:47PM 13 in the hospital, but there was documentation from Outlaws in  
04:47PM 14 Australia and other places sending him money. Other states,  
04:47PM 15 that's Exhibit 1H.

04:47PM 16 Exhibit 1I is an example of that. Here's a donation from  
04:47PM 17 the Orange Region. The Orange Region consists of, according  
04:47PM 18 to the information that I showed you in Government Exhibit 8A,  
04:47PM 19 of Florida. So, Florida donated him money. One thousand  
04:47PM 20 dollars.

04:47PM 21 This one's a letter from a chapter in Australia. I'll  
04:48PM 22 zoom it out so you can see that. It's from the Nagambie  
04:48PM 23 chapter in Australia. And these are just several other  
04:48PM 24 examples, Your Honor, of chapters from different places  
04:48PM 25 sending money, mailing it in his wife's name, but certainly

04:48PM 1 intended for him.

04:48PM 2 One K, One L. Now, this a little bit different as well.

04:49PM 3 If you look at 1M, the first page of this, they have a jail

04:49PM 4 list. And they have -- they keep records of every Outlaw who

04:49PM 5 is in the penitentiary all over the country. And they update

04:49PM 6 that list.

04:49PM 7 And there's one here from Buffalo, New York, Edgar DeKay

04:49PM 8 who, at the time that he was prosecuted federally, he was

04:49PM 9 prosecuted as part of the Kingsmen racketeering case that I

04:49PM 10 was the prosecutor on, but he had become an Outlaw by the time

04:49PM 11 he was sentenced. In any event, he became an Outlaw after

04:49PM 12 moving over to the Nickel City Nomads.

04:49PM 13 And after, in 2015, Mr. Ermin, which doesn't show up in

04:49PM 14 his bail report, was stopped in Ohio during a road rage

04:49PM 15 incident with Mr. Ermin, Joseph Matthews a/k/a Lucky and Edgar

04:50PM 16 DeKay, a/k/a Special Ed. There were firearms and meth in the

04:50PM 17 vehicle. Mr. DeKay claimed that that stuff was his.

04:50PM 18 Of course, that case ended up going nowhere as it relates

04:50PM 19 to Mr. Ermin, but Mr. DeKay became a full patch Outlaw and his

04:50PM 20 plea agreement was found in Mr. Ermin's residence.

04:50PM 21 His transcript of his plea agreement here in federal court

04:50PM 22 that appeared before Judge Wolford was found in the Outlaws

04:50PM 23 clubhouse. These are more law enforcement-sensitive documents

04:50PM 24 or information that -- withdrawn.

04:50PM 25 This is information another Outlaw who is out bad in

04:50PM 1 Tennessee, who pled guilty in his case, sent Mr. Ermin --  
04:50PM 2 trying to get back in the good graces of Mr. Ermin to get back  
04:51PM 3 into the club trying to say, I took a charge so that five  
04:51PM 4 other Outlaws could walk free. I was a stand up brother;  
04:51PM 5 meaning I didn't snitch. I didn't harm the club. I helped  
04:51PM 6 the club. And he's essentially begging Mr. Ermin for back  
04:51PM 7 into the Outlaws.

04:51PM 8 That's Exhibit 1N, Exhibit 1O. This was also in  
04:51PM 9 Mr. Ermin's residence, Your Honor. Don't know how he got it.  
04:51PM 10 Highly concerning. Law enforcement sensitive information from  
04:51PM 11 the FBI regarding intelligence. Highly concerning. Rampant  
04:51PM 12 obstruction. People could die here. We don't know what  
04:51PM 13 ramifications this document has as I stand here and proffer  
04:52PM 14 today.

04:52PM 15 He has confidential mental health information for  
04:52PM 16 somebody. Another case where he's monitoring a case in  
04:52PM 17 Pennsylvania, monitoring news reports. This is Government  
04:52PM 18 Exhibit 1R.

04:52PM 19 There's the plea agreement, 1S, for Mr. DeKay that I  
04:52PM 20 mentioned earlier. One T is a document that shows you a  
04:52PM 21 little more about the mindset which relates to the  
04:53PM 22 dangerousness. Many brothers have come and gone. Some gave  
04:53PM 23 their lives. Some gave their freedom. In other words, some  
04:53PM 24 died in fights they had with other gangs. Some went to prison  
04:53PM 25 for the club. And the Outlaws are what they are today because

1 they believed in the Outlaws true 1 percent brotherhood. That  
2 means, standup criminal organization that doesn't snitch and  
3 fights to the death. That's what they're talking about here  
4 with their brotherhood. And they use the word honor. That's  
5 what they mean.

6 One U, it's a news report. And also more intelligence  
7 regarding the Pagans and the Kingsmen that Mr. Ermin had that  
8 somebody highlighted from the Jamestown Police Department.  
9 Again, highly concerning. One V, the close-up of that same  
10 document. One W are a number of transcripts where he's  
11 monitoring more court activity from different places around  
12 the country, Your Honor. This is in his residence. Probably  
13 got more legal documents than you do in your residence, and  
14 you're a judge.

15 One X, he's aware of, and appears to be tracking other  
16 people in another jurisdictions that are caught on what  
17 appears to be a wiretap transcript. And he's not on the  
18 wiretap, but it appears to reference him. And so, he has  
19 highlighting the reference to Tommy O. 1 percent. Very law  
20 enforcement-conscious, Your Honor. He got notified that  
21 Pennsylvania caught him on a wiretap in '09 not aware of any  
22 charges that they were able to file resulting from that  
23 notice.

24 Again, he's got a memorandum from US Probation that has  
25 nothing to do with any case he has. I think those memorandums

1 are typically confidential probation documents. I mentioned  
2 earlier he received direct mail from the prior national  
3 president and I read to you in Exhibit 1B the press release  
4 regarding Milwaukee Jack. Well, there's the envelope where  
5 he's mailing Mr. Ermin at the search location that this court  
6 authorized.

7 Now, I told you earlier -- this is Exhibit 1AB for the  
8 record -- that, under Mr. Ermin's stewardship, there was a  
9 chapter opened in Brazil. And law enforcement, FBI agents  
10 searching his residence, found this photo and what we believe  
11 this to be is members of the motorcycle club in Brazil that  
12 later became Outlaws or are associated in some way.

13 There's those blue arrows there. Well, if you go to  
14 Exhibit -- 1AC is pretty similar. But, if you flip over that  
15 photo, this is how it was in his house. So, Exhibit 1AD, on  
16 the back of the Post-It, it says, blue arrows are supposed to  
17 be cops in the -- that's the name of that other club I can't  
18 pronounce, A-B-U-T-R-E-S. So, now, I put it back. Used blue  
19 arrows, track potential undercover cops in Brazil. Talk about  
20 international reach.

21 Exhibit 1AE are ATF law enforcement-sensitive documents  
22 regarding a shooting that ATF not locally was investigating.  
23 Those are confidential source reports. And there's notes on  
24 them about who the informant is. So, the ATF didn't write the  
25 notes about who the informant is. The highlighted information

04:59PM 1 is the CI number. And there's an indication next to it  
04:59PM 2 written by someone, presumably Mr. Ermin, as this was in his  
04:59PM 3 house. This is name. And I put my finger over it. That's  
04:59PM 4 1AF.

04:59PM 5 One AG, again, shows you, Your Honor, very closely  
04:59PM 6 tracking the investigation and prosecution related to Gerace  
04:59PM 7 and Pharaoh's club. And somebody, and he has it in his house,  
04:59PM 8 highlights the source who asked not to be identified, said the  
05:00PM 9 FBI asked a lot of questions about alleged prostitution, the  
05:00PM 10 Outlaws, specific parties that Gerace allegedly put on whether  
05:00PM 11 the person saw any judges or attorneys at this parties.

05:00PM 12 Well, we now know that there were relationships with  
05:00PM 13 members of law enforcement and judges in connection with  
05:00PM 14 Mr. Gerace and Pharaoh's and his parties. Again, this is  
05:00PM 15 another page from the search warrant receipt from Paul  
05:00PM 16 Resolowski. And now, someone has PDFed it and has added  
05:01PM 17 highlighter to it highlighting what was taken that linked  
05:01PM 18 Mr. Resolowski to Pharaoh's. That's Exhibit 1AH.

05:01PM 19 They've also highlighted this is Exhibit 1AI, various  
05:01PM 20 portions of Attachment B regarding the 2021 Resolowski search  
05:01PM 21 honing in on anything club-related or drug-related.

05:01PM 22 Next is Exhibit 1AK, Your Honor. It's a filing that I  
05:03PM 23 wrote in the Gerace case because Mr. Ermin had put in a false  
05:03PM 24 affidavit in support of Gerace that totally contradicts  
05:03PM 25 statements that he made to the FBI regarding the financing at

Pharaoh's because he was present when the FBI searched it in 2019, and he later put in a federal affidavit in support of a reduced bail for conditions for Mr. Gerace where he made statements diametrically opposed. So, this filing was pointing out thing that he has previously said that were not consistent with the publicly court-filed affidavit which, itself, lend itself to obstruction charges or client conspiracy charges.

In any event, you can see the highlighting. He highlights -- somebody highlighted for him every reference to Mr. Ermin or the Outlaws in that filing. And there's the header for it, Exhibit 1AL. It was the government's response to Gerace's motion to amend his release conditions. One AM, One AN, One AO, One AP, One AQ are just different pages of that. Then, he also had the protective order in the Gerace case. And highlighted portion of that is Exhibit 1AR relate to Coconspirator 2 and 3.

And then, he had the whole indictment, but he had a particular page that referenced the Outlaws, this is Exhibit 1AS, highlighted where the second superseding indictment in that case talks about several employees at Pharaoh's are members of the Outlaws.

Then, another document -- I'll get into this more later, we found he was charged with a gang assault, Mr. Ermin was, in 2010. And it didn't go anywhere. And you've been on the



1 bench a long time. Given the breadth of the proffer so far,  
2 you likely can infer why that case didn't go anywhere. But  
3 comparing that trove of confidential source reports, law  
4 enforcement-sensitive documents and meticulous tracking of the  
5 Pharaoh's case to see who might be a cooperator, again,  
6 juxtapose that against some of the documents also found in the  
7 Outlaws clubhouse. It's zoomed out, but you can see marked  
8 Jencks.

9 There's FBI confidential source reporting, and some of it  
10 goes back years. It spans. There was also a witness list  
11 found -- I don't have a photo of it for you -- a witness list  
12 found you from Rosga's case with notations on it monitoring  
13 cooperation all over the country, and that's consistent with  
14 something that we've seen in one of Mr. Ermin's prior phones  
15 where someone in Wisconsin was texting him or someone was  
16 texted him information about someone who might be a cooperator  
17 in Wisconsin.

18 So, Exhibits 1A through 1AT have all also been displayed,  
19 as well as Exhibit 11A most recently. But there's more, Your  
20 Honor. And we haven't even talked about how dangerous the  
21 weapons he has were.

22 Let's talk next about their treatment of women. So, in  
23 the Outlaws clubhouse, and this is important because in the  
24 Pharaoh's case and the Gerace case, we've received some  
25 information that some of the women who worked there would go

1 to Pharaoh's and -- as punishment, they would work at  
2 Pharaoh's and things would happen there. As a punishment, the  
3 Pharaoh's dancers would work at the Outlaws' clubhouse. I may  
4 have misspoke. I apologize.

5 Here's Exhibit 14B. This is on a pole posted at the  
6 Outlaws clubhouse and I'll have a better image for you, Your  
7 Honor, so you can read it more easily, but this is publically  
8 posted almost like a warning of how you're going to be  
9 treated. So, that's 14B.

10 Now show you 14A. You can read it more easily. I'll read  
11 it into the record. "Women! Unlike the outside world, we  
12 don't want any of you pussy. You will be treated like the  
13 person you act. Act like a cunt, and you'll be treated like a  
14 cunt. Act like a man, you'll be dealt with like a man. Act  
15 like a lady, we will treat you like one. After all this, if  
16 you want to give us some pussy, I'm sure we will take it, or  
17 at least a blow job. If you need any help with how to act,  
18 get a hold of any Outlaws' old lady for help. She'll let you  
19 know what the dos and don'ts are." We have information about  
20 women being assaulted at that clubhouse.

21 Similar to what was in Mr. Ermin's residence, there were  
22 jail lists in the clubhouse, Exhibit 13A, as well as a  
23 complete affiliate roster. They have collections for other  
24 Outlaws in jail, Exhibit 13B, as well as for members of the  
25 Black Pistons in jail, Exhibit 13C, defense fund. I mentioned

05:11PM 1 earlier the AOA and the reference to the Aryans that that  
05:11PM 2 stands for. Here's more information that we recovered from  
05:12PM 3 the clubhouse.

05:12PM 4 Exhibit 16A, that's in a book that has acronyms on the  
05:12PM 5 side. Regarding the Outlaws forever, forever Outlaw, and that  
05:12PM 6 imagery is unmistakable. White supremacist and Nazi racist  
05:12PM 7 organization. Just for the record, that's Exhibit 16A.  
05:12PM 8 That's a number of men wearing KKK masks over their heads.  
05:13PM 9 And I don't need to tell this Court what that type of ideology  
05:13PM 10 can do as we have experienced it all too recently in Buffalo.

05:13PM 11 Exhibit 16B, this is an entire wall of the clubhouse. The  
05:13PM 12 Nazi swastika, which speaks for itself in terms of the hate,  
05:13PM 13 and the danger, and the ex termination of a race of Jewish  
05:13PM 14 people. And there's a top 1 percenter, if you Zoom in and  
05:13PM 15 take a look. They're on there, 1 percenter. But that's a  
05:14PM 16 whole wall featured prominently in the courthouse. So, when  
05:14PM 17 you're assessing dangerousness, Your Honor --

05:14PM 18 THE COURT: Did you say in the courthouse?

05:14PM 19 MR. TRIPI: I mean in the clubhouse, not in the  
05:14PM 20 courthouse. When you're assessing dangerous in the case, I'd  
05:14PM 21 like you to think about that. The clubhouse also had some  
05:14PM 22 drug evidence, and you'll hear more about this during  
05:14PM 23 Mr. Barnes' proffer. There were steroids --

05:14PM 24 THE COURT: You mean Mr. Cooper's proffer?

05:14PM 25 MR. TRIPI: Mr. Cooper's proffer. You'll hear more

05:14PM 1 about it.

05:14PM 2 THE COURT: You said Barnes.

05:15PM 3 MR. TRIPI: Well, the proffer related to Mr. Barnes.

05:15PM 4 I apologize. It's been a long day already, Your Honor. I

05:15PM 5 apologize. Exhibit 10B, more drug paraphernalia.

05:15PM 6 And, finally, we'll get into some of the weapons that were

05:15PM 7 in Mr. Ermin's residence and -- just some. Not all. Like I

05:15PM 8 said, there were some very serious weapons that aren't photoed

05:16PM 9 here in terms of knives and machetes and blunt force-type

05:16PM 10 weapons. There's an Outlaws baseball bat that I don't think

05:16PM 11 is used to play baseball and that's a good segue.

05:16PM 12 On Mr. Ermin's right -- or left arm, and this is was in

05:16PM 13 one of the photographs I showed you, he has BBT. And I told

05:16PM 14 you about the GFOD on his stomach, but BBT on his left arm

05:16PM 15 means the Baseball Bat Team. And that's their subgroup of

05:16PM 16 particularly violent Outlaws who are the ones who, essentially

05:16PM 17 go to war, essentially, with the Hell's Angels and inflict

05:17PM 18 violence. He's got that etched on his left arm.

05:17PM 19 And so, I have no information that he has a hunting permit

05:17PM 20 or was a hunter, but he had 16 firearms in his residence of

05:17PM 21 all types, plenty of ammunition for the guns. This is Exhibit

05:18PM 22 4A. That's a sampling of the weaponry, the firearm-related

05:18PM 23 weaponry, that was found in Mr. Ermin's residence. And now,

05:18PM 24 we'll show you some of the weapons that were found in the

05:18PM 25 clubhouse where Mr. Barnes was located. You'll hear more

05:18PM 1 about that later. But Exhibit 9A, you see a handgun right  
05:18PM 2 there. That's in the clubhouse. That handgun was loaded.

05:18PM 3 This is Exhibit 9B. That's an FBI agent holding the  
05:18PM 4 firearm. You can see there's already a round in the chamber  
05:18PM 5 ready to be fired. Exhibit 9C, you see a fully loaded  
05:19PM 6 magazine.

05:19PM 7 Exhibit 9D, operator alignment tool. It's a club used to  
05:19PM 8 hit people.

05:19PM 9 Exhibit 9E depicts several daggers in a sheath; stabbing  
05:19PM 10 tools.

05:19PM 11 Exhibit 9F depicts a rope with two hard objects at either  
05:19PM 12 end; one with a clasping mechanism or a buckle and the other,  
05:19PM 13 a hard circular piece at the other end. Now, the genius of  
05:20PM 14 these weapons that the Outlaws carry is, you get stopped with  
05:20PM 15 that, there's virtually nothing that a law enforcement can  
05:20PM 16 charge you with, but it's clearly designed to beat people up.  
05:20PM 17 And we have information that people have been beaten up at the  
05:20PM 18 Outlaws' clubhouse.

05:20PM 19 Another example of that type of weapon that they use is  
05:20PM 20 Exhibit 9G. That's a bandana with a padlock at the end.  
05:20PM 21 Nothing that a law enforcement officer can charge an Outlaw  
05:20PM 22 with if they were to stop them at a traffic stop, but very  
05:20PM 23 dangerous, potentially deadly, if somebody were to get beaten  
05:20PM 24 with that padlock and that handkerchief used as a weapon. And  
05:21PM 25 again, those were just some of the examples that were selected

05:21PM 1 for the Court's purposes today.

05:21PM 2 So, what you have is an organization that retaliates  
05:21PM 3 against snitches, has a well-earned reputation for doing it  
05:21PM 4 who this Court authorized searches related to the death of a  
05:21PM 5 federal witness, who are intimately involved in the activities  
05:21PM 6 at Pharaoh's Gentlemen's Club, whose interests align with  
05:21PM 7 Peter Gerace and who are motivated to silence the same  
05:21PM 8 witnesses, who spent time in his back yard while he was under  
05:21PM 9 the indictment of this case.

05:21PM 10 Mr. Ermin's residence was an arsenal. The Outlaws  
05:22PM 11 clubhouse had weapons at the ready. Their Nazi, white  
05:22PM 12 supremacist-type rhetoric implies a high level of danger.  
05:22PM 13 Their treatment of women, high level of danger. His access to  
05:22PM 14 currency, there was over \$10,000 or so, I'm estimating, in his  
05:22PM 15 residence, and about \$40,000 more in the clubhouse. Relates  
05:22PM 16 to his risk of flight.

05:22PM 17 He commands legions of loyalists under this 1 percenter  
05:22PM 18 banner; and not only just members of the Outlaws, members of  
05:22PM 19 other clubs as well including the Black Pistons, the official  
05:22PM 20 support club, and other support clubs that can be influenced  
05:23PM 21 by the Outlaws in their area here in Buffalo.

05:23PM 22 He's got international travel, chapters all over the  
05:23PM 23 globe, and he was involved in a gang assault that we're going  
05:23PM 24 to look more into, but we just found these documents. So, I'm  
05:23PM 25 not going to read the names of the victims, for obvious

05:23PM 1 reasons, Your Honor, but April 15th, 2010, he was charged with  
05:23PM 2 gang assault with other Outlaws.

05:23PM 3 And the allegation in a deposition provided to law  
05:23PM 4 enforcement reads, "On April 15th at approximately 12:45 a.m.,  
05:24PM 5 I was at The Fireside Inn with my girlfriend and her friend.  
05:24PM 6 And we went outside to smoke on the front patio. Two guys  
05:24PM 7 that the two women knew followed us out front. I later  
05:24PM 8 learned their names were Cory Benson and Tommy Ermin.

05:24PM 9 The female's friend wanted to take a ride on Tommy's  
05:24PM 10 motorcycle, and the other woman objected. I watched Cory  
05:24PM 11 Benson, who is a full patch members of the Outlaws then say,  
05:25PM 12 she is a big girl. She can make her own decisions. I then  
05:25PM 13 could tell that Cory was angry with the woman, and I tried to  
05:25PM 14 calm the situation by introducing myself to Cory.

05:25PM 15 At that time, Cory called me an asshole. And he and Tommy  
05:25PM 16 pushed me back and began punching me in the face and body.  
05:25PM 17 Also, another male who was with them in the bar came outside  
05:25PM 18 and began punching and kicking me. I later learned his name  
05:25PM 19 to be Dennis Falk (phonetic). I finally was able to get up  
05:25PM 20 and retreat to the parking lot.

05:25PM 21 While in the parking lot, I watched Tommy whose name I  
05:25PM 22 learned to be John T. Ermin push and slap the woman across the  
05:25PM 23 face. She fell to the ground. I tried to help her and the  
05:26PM 24 other woman leave, but then Dennis Falk, Chris Marchorka  
05:26PM 25 (phonetic) and Cory Benson began to punch me, kick me, and

1 beat me again. One of them grabbed the back of my neck and  
2 were slamming my head off the curb and pavement. I could feel  
3 blood streaming from my face and nose. I heard Tommy yell,  
4 come on. The cops are going to come. You're taking too long.  
5 At that time, I looked up and a police officer pulled up, and  
6 I heard him yell to the guys beating me, don't move. Shut off  
7 your bikes. I noticed that each of the guys who beat me were  
8 all wearing Outlaw Motorcycle Gang jackets or vest."

9 And then, there's a similar deposition from one of the  
10 women. We recovered these reports in his residence. We were  
11 unaware of them, so I don't know the full scope, but we  
12 eventually will get into it. But I can only proffer the  
13 information I have to you at this time.

14 So, I'd like you to consider all of that when you're  
15 assessing the charges in this case, which go well beyond the  
16 risk of danger here and the risk of flight go well beyond what  
17 you might ordinarily be thinking as it relates to this charge,  
18 Your Honor. But, with 16 firearms, even just on this charge,  
19 there's a rather lengthy prison sentence associated with the  
20 guidelines for being a prohibited person who has 16 firearms  
21 and a lot of ammunition.

22 THE COURT: What would the guidelines call for?

23 MR. TRIPI: You know, Judge, I ran out of time  
24 before. Let me just take a moment. I might be able to get  
25 that for you. I believe he's a Criminal History Category 1.



05:29PM 1 It's going to come out to 22 or 24 before acceptance. They're  
05:29PM 2 going to verify that for me.

05:29PM 3 THE COURT: Twenty-two or twenty-four months?

05:29PM 4 MR. TRIPI: Twenty-two or twenty-four of the  
05:29PM 5 guidelines. Category I, either 22 or 24.

05:29PM 6 THE COURT: So, the Pretrial Services report  
05:29PM 7 indicates no felony conviction.

05:29PM 8 MR. TRIPI: No felony convictions, but the prohibited  
05:29PM 9 922(g)(3) is a prohibited person. So, that starts you at a  
05:29PM 10 14. And then, I believe you get an enhancement for the number  
05:29PM 11 of firearms. And that's what I'm not sure of. Sixteen  
05:29PM 12 firearms is going to enhance it a certain number of levels,  
05:29PM 13 and then, we'll take a look at that.

05:29PM 14 And just the last word on risk of flight before I check  
05:30PM 15 with my colleagues, Your Honor, they now have Attachment B.  
05:30PM 16 They now know things the FBI is looking for. Those included  
05:30PM 17 various statutes related to murder, conspiracy, the very types  
05:30PM 18 of things that, historically, the Outlaws have had self  
05:30PM 19 national presidents convicted of, and sentenced to very  
05:30PM 20 serious time in prison. A very preliminary assessment, just  
05:30PM 21 to answer the question of the guidelines, without acceptance  
05:30PM 22 of responsibility, is around 41 to 51 months by our quick  
05:30PM 23 calculations here.

05:30PM 24 So, this isn't a nothing murder charge it is a charge that  
05:31PM 25 allows us to get him into federal court here, proffer to you

1 all the information that the Court needs to know regarding  
2 full scope of the human being you're dealing with, the danger  
3 to society, the danger to specific witnesses, and the context  
4 of his interests and his organizational interests in another  
5 case where a witness has died, where they can now further  
6 their investigation with in connection with that witness's  
7 death; a witness who provided information about them, who is  
8 no longer with us, And the context of all those T-shirts.

9 And that's not just props. This isn't a movie. These are  
10 real national presidents who have been to prison for real  
11 murders, and he's ascended to the throne.

12 So, I think, in that context, the nature and circumstances  
13 of the offense, including whether the crime involved a  
14 firearm, weigh heavily in favor of detention. He had 16 of  
15 them individually. And if you add up all the searches with  
16 support clubs and other individuals and the Outlaws clubhouse,  
17 it totalled 50 that day between RBC and the Outlaws. He had a  
18 good chunk of those.

19 You have the weight of the evidence is strong. The guns  
20 are all over his house. He acknowledged being a user. He's  
21 got patches that infer that he pops pills and smokes dope. In  
22 his house, they seized THC edibles. They seized marijuana.  
23 In the context of an acknowledgement that he uses that. The  
24 weight of the evidence is strong.

25 The history and characteristics of the offender, he's the

1 national president of the Outlaws who rose through the ranks  
2 through the Baseball Bat Team. You only get to the level that  
3 he's at the hard way, and there's a lot of pain from others  
4 along the way.

5 The nature an seriousness of the danger the defendant  
6 would pose to any person in the community, it's immeasurable.  
7 It's immeasurable given the virtue of his position. It's  
8 immeasurable given the way they've set up the clubhouse.  
9 It's, basically, Fort Knox. It's immeasurable given his  
10 access to other individuals who would act at his behest and  
11 support clubs who want to prove themselves to the Outlaws.

12 And they have real skin in the game, because the place  
13 where he works, where he manages, where the owner is already  
14 under federal indictment, that owner is looking at life in  
15 prison at trial. This appears to be the tip of the iceberg.

16 With that context in mind, I verily believe that the  
17 evidence demonstrates serious danger to the community,  
18 substantial risk of flight, and a high risk that the defendant  
19 and others at his behest will engage in obstruction of justice  
20 which courts in the Second Circuit and across the country have  
21 held is a threat to the very fundamental core of our system of  
22 justice. That's what is represented in this courtroom today.

23 With that, Judge, I ask you to detain the defendant  
24 pending further proceedings in this case. Just one moment. I  
25 have nothing else, Your Honor. Thank you.

05:34PM 1 THE COURT: Mr. Muscato?

05:34PM 2 MR. MUSCATO: Thank you, Judge. So, as the Court is

05:35PM 3 aware, at these detention hearings, the real issue here is

05:35PM 4 whether or not John Ermin is a flight risk. And the fact of

05:35PM 5 the matter is, is that he's before you today because he's

05:35PM 6 charged with 922(g) (3). That's the only charge. In fact,

05:35PM 7 quite frankly, Your Honor, that is the only charge that he has

05:35PM 8 that is in this court or any other potential felony.

05:35PM 9 Now, they went to his residence, which is a nice home in

05:35PM 10 Lancaster that he lives with his wife, and they've been

05:35PM 11 married for a substantial period of time; well-maintained home

05:35PM 12 he owns, and they search probably with over a dozen law

05:35PM 13 enforcement agents, the FBI and otherwise, for many hours.

05:35PM 14 John sat on the couch with his wife. He was not handcuffed,

05:36PM 15 except after they decided that they were going to file a

05:36PM 16 charge against him. He was completely cooperative, met the

05:36PM 17 officers at the front door.

05:36PM 18 In fact, the judge would -- Your Honor would note that my

05:36PM 19 client has lost a leg. He has a prosthetic device. And, on

05:36PM 20 that particular day, when the agents showed up, he was not

05:36PM 21 wearing that particular device. But he accommodated them, got

05:36PM 22 them in the house, and let them go about whatever

05:36PM 23 responsibilities they have.

05:36PM 24 After all this, after all this search and securing

05:36PM 25 documents, they walked away with a number of computers, a

05:36PM 1 number of phones, papers, many of these things you've seen  
05:37PM 2 today, and 16 firearms.

05:37PM 3 Now, there is nothing in my client's background that makes  
05:37PM 4 it illegal for him to possess these 16 firearms. He has every  
05:37PM 5 right to possess them. And, when you look at the photograph  
05:37PM 6 of the 16 firearms, Your Honor, most of them are 22's. Most  
05:37PM 7 of them are shotguns. There was ammunition for these guns.  
05:37PM 8 But these guns are used for hunting. My understanding is John  
05:37PM 9 does do some hunting. That's what he likes to do in his  
05:37PM 10 recreation. But these were firearms that were legally  
05:37PM 11 possessed.

05:37PM 12 Now, as part of this search, they did find some gummies  
05:37PM 13 which is, I believe, a cannabis material and some leafy  
05:37PM 14 marijuana. And it was indicated, by my client, that it was  
05:37PM 15 for recreational use. I don't know, and it's not specifically  
05:38PM 16 itemized, as to whose recreational use it was for, but it was  
05:38PM 17 a small amount of marijuana. Nobody is disputing that. The  
05:38PM 18 agents acknowledge it. They put it in the information. They  
05:38PM 19 know it was a small amount of marijuana.

05:38PM 20 Yes, marijuana is illegal in the federal system, quite  
05:38PM 21 frankly, but the State of New York says it's legal. Now, I'm  
05:38PM 22 not trying to justify that, but the fact of the matter is, is  
05:38PM 23 that many, many hunters who might be up in their stands  
05:38PM 24 smoking a marijuana joint with their shotgun could find  
05:38PM 25 themselves in exactly the same situation my client finds

05:38PM 1 himself in in federal court facing a federal charge, this  
05:38PM 2 922(g)(3) for possessing legal firearms, and for having some  
05:38PM 3 marijuana in his home; not meth, not cocaine, not crack  
05:39PM 4 cocaine, not ecstasy, not anything else, marijuana, a small  
05:39PM 5 quantity, of which he acknowledged was for recreational use of  
05:39PM 6 which the agents had obviously agreed with him as far as the  
05:39PM 7 quantity was concerned. That's why he's standing in front  
05:39PM 8 of -- or sitting in front of this court today is for that  
05:39PM 9 particular charge.

05:39PM 10 Now, they went to say to you, well, he's dangerous, he's a  
05:39PM 11 flight risk, he's this, he's that. So, they throw everything  
05:39PM 12 out at this Court in an effort to try to convince you that  
05:39PM 13 this man is something other than what he is, really, which is  
05:39PM 14 simply, he lives in Lancaster. He has a job. He's been  
05:39PM 15 working at Pharaoh's for about 10 years, I believe, as the  
05:39PM 16 manager. He started there years before.

05:39PM 17 Now, this is very interesting, Your Honor, because he  
05:39PM 18 started at Pharaoh's a long time ago in maintenance, and just  
05:39PM 19 doing odd jobs, and collecting \$10 an hour. He worked himself  
05:40PM 20 up until he became the manager. Now, you know what he did?  
05:40PM 21 He got off of Social Security Disability. Because he was in  
05:40PM 22 an automobile accident with his wife in which a car went  
05:40PM 23 across the road, struck him while he was riding on his  
05:40PM 24 motorcycle, took his leg, and took his wife. He went on  
05:40PM 25 Social Security Disability, but he doesn't want to be a slug

1 in this world. He doesn't want to be collecting Social  
2 Security Disability. He doesn't want to be that kind of  
3 person. He went and got a job that paid him enough money and  
4 he's been a good manager over all of these years at Pharaoh's  
5 Gentlemen's Club and received a salary, stopped collecting  
6 Social Security Disability. Doesn't have any criminal record.  
7 They know that.

8 Now, they brought up this charge in Lancaster. They can't  
9 figure it out why it went away. I do want to take some credit  
10 for it, because I represented him during that proceeding.  
11 And, quite frankly, at the end of the day, I don't believe --  
12 I'm going to be very candid with Your Honor.

13 I don't believe that it was the complete resolution in  
14 terms of was it a disorderly conduct or something that's major  
15 from a felony down to a violation that could have been. I  
16 honestly don't remember, but I do know the facts; that  
17 Mr. Ermin, contrary to what those witnesses said, acted in  
18 self-defense of another woman.

19 Although they would have you believe that, somehow, he is  
20 derogatory towards women. But, yet, they can't point to any  
21 one thing this man did that would be derogatory to women.  
22 Nothing. But they would have you believe that women --  
23 because he happens to be a member of the Outlaws Motorcycle  
24 Club is somewhat lesser included citizens in his life.

25 But that's not what happened in Lancaster. What happened

05:42PM 1 in Lancaster was, this man came to the aid of somebody that  
05:42PM 2 was being pushed around by a couple of thugs outside of a bar.  
05:42PM 3 It was a barroom thing. Otherwise, Mr. Ermin has no criminal  
05:42PM 4 record at all.

05:42PM 5 So, they would say, well, you know, Judge, he's a white  
05:42PM 6 supremacist. He's a racist. Really? Where is it? Where is  
05:42PM 7 it? They find anything in his house? Can they point to  
05:42PM 8 anything in this particular case that John Ermin did that  
05:43PM 9 would, in any basis, to believe that somehow he treats other  
05:43PM 10 people of a different color differently?

05:43PM 11 Not what they find at the clubhouse, what they find in my  
05:43PM 12 client's lifestyle over all these years in my client's house?  
05:43PM 13 They do this to obstruct and to obfuscate the real fact here  
05:43PM 14 which is, this is a charge, although serious, not the most  
05:43PM 15 serious, involving marijuana and legally-possessed guns. And  
05:43PM 16 he is under no circumstances not going to be responsive to  
05:43PM 17 these proceedings and appearing in this case. That's number  
05:43PM 18 one they tell you.

05:43PM 19 And then, they say, well, he's the president of the club.  
05:43PM 20 I'm sorry, Your Honor, I didn't see a single document that  
05:44PM 21 said he was the president or the national president of the  
05:44PM 22 club. I just didn't see that. They would have you believe  
05:44PM 23 that. But he must be a lousy president because he has  
05:44PM 24 absolutely no criminal record. And they want you to believe  
05:44PM 25 because of these other guys that maybe were one time president



1 and he somehow had the paperwork back, he must be a bad guy  
2 too. Really? Where is the bad guy stuff that he did? They  
3 don't have anything here, but they want to obfuscate. They  
4 want to obscure the fact that this is a detention hearing and  
5 there must be something more in Mr. Ermin's background that  
6 somehow he shouldn't back out on the street and carrying on  
7 his family life and his occupation.

8 So, they say, well, he followed the proceedings. I've  
9 been following the proceedings. So what? He works at  
10 Pharaoh's. Obviously, Mr. Gerace is his employer. At the end  
11 of the day, he's his employer. This has been going on for  
12 four years. I've read in the paper, I hope I don't get in  
13 trouble for saying this, that's there's a bunch of witnesses  
14 they have. Have they point to this Court one single witness  
15 that my client has intimidated? Have they? No. They  
16 haven't, because they know he hasn't.

17 They say he lied in an affidavit, but they don't tell you  
18 what it is that they claim that he lied because it's not very  
19 substantive. It's immaterial. It was a small item dealing  
20 with who controls the money Pharaoh's. So, they want you to  
21 believe that, somehow, he must be a flight risk or a dangerous  
22 person because he's been following the proceedings.

23 He's attended a party at Peter Gerace's house, apparently,  
24 but there's all kinds of other people in there whom I don't  
25 know that appear to be in clothing that would lead me to

1 believe that they're probably out of J. Crew or something of  
2 that nature that attended this particular party, but somehow  
3 that mitigates against my client because he went to his  
4 employer's home for a party.

5 Judge, the other thing that's very important here is that  
6 my client has had not only the disability that he's lived with  
7 for most of his life, the loss of a leg, but he's also had --  
8 during COVID, he got a very bad case of COVID, went into  
9 Millard Fillmore suburban and ended up on a ventilator, I  
10 believe. He was in there for 30 days and he ended up on a  
11 ventilator for 15.

12 Now, he doesn't deny being a member of the Outlaws  
13 Motorcycle Club. And there is a lot of good comes from the  
14 outside -- Outlaw Motorcycle Club which they don't focus on.  
15 But these donations that he got from the various members of  
16 the club, that's because he was in the hospital in a coma and  
17 on the verge of, perhaps, dying. And they, the Outlaws, who,  
18 I guess, are these bad people, wanted to help the family, so  
19 they donated some money to him. I don't understand how that  
20 affects his ability to appear in court but, somehow, the  
21 government feels it does.

22 So, when you really boil this down, and lastly, I'm not  
23 going to take the same length of time because I think most, 99  
24 percent, and there's no pun intended here, but 99 percent of  
25 what Mr. Tripi has said is totally irrelevant and totally

1 unsupported by any facts in this particular case. There's no  
2 additional charges. There's no additional complaints. They  
3 want you to believe that, somehow, he's related in terms of  
4 what happened to this young lady down in Allegany County with  
5 no proof. They just want to throw it out there and say, I  
6 guess that that's good enough that you should detained him for  
7 that.

8 But, additionally, he's had some health issues. He does  
9 not have prostate cancer, but he's scheduled for prostate  
10 surgery on the 23rd of December of which, quite frankly, is  
11 going to lay him up for another number of weeks.

12 So, if you look at the record, and I do agree with the  
13 bail report. They can say it's 15 minutes, but those people  
14 are pretty much -- pretty astute here. They know what they're  
15 doing, and they know, and they recommend to the Court that he  
16 should be released from detention with some conditions like  
17 they have indicated. They're allowing him to go back to work.  
18 It seems to be a pretty reasonable solution with respect to  
19 Jen John Ermin.

20 So, Your Honor, when you look at all of the things that  
21 they have talked about, obstruction of justice, there's  
22 nothing here. Flight risk, absolutely nothing here that would  
23 indicate otherwise. And firearms? Okay. He can legally  
24 possess the firearms. There's no indication that any of these  
25 firearms or ever used in any crime whatsoever. They're just

05:56PM 1 hunting rifles of which this man is entitled to possession.

05:56PM 2 Yes, there was marijuana there. I am not trying to minimize

05:56PM 3 that. On the other hand, let's look at it the way it is, and

05:57PM 4 I would ask the Court to release my client.

05:57PM 5 MR. TRIPI: Rebuttal, Your Honor?

05:57PM 6 THE COURT: Certainly.

05:57PM 7 MR. TRIPI: We're standing here in federal court on a

05:57PM 8 federal charge that he's unlawfully possessing a firearm under

05:57PM 9 federal law. So, this Court has determined there's probable

05:57PM 10 cause for these charges and he's not allowed to possess these

05:57PM 11 firearms, because he an unlawful user of drugs.

05:57PM 12 THE COURT: Well, that has to be proven.

05:57PM 13 MR. TRIPI: Well, at the threshold stage of probable

05:57PM 14 cause, that's why we're here, right?

05:57PM 15 THE COURT: Right. But he's not been convicted of

05:57PM 16 it.

05:57PM 17 MR. TRIPI: Of course. Anyone who is indicted or

05:57PM 18 charged has not been convicted at a detention hearing.

05:58PM 19 THE COURT: Correct. And anyone who has been

05:58PM 20 indicted is entitled under the Constitution to --

05:58PM 21 MR. TRIPI: Correct.

05:58PM 22 THE COURT: -- consider.

05:58PM 23 MR. TRIPI: I just make a couple more points, Your

05:58PM 24 Honor, and I'll sit down. There's nothing that's in that

05:58PM 25 clubhouse or that happens nationwide with the Outlaws that

05:58PM 1 he's not clued into. He literally controls all of it.

05:58PM 2 So, as to his national presidency, that's well documented  
05:58PM 3 by law enforcement. That's well documented by witnesses who  
05:58PM 4 are aware of his status. That's well documented by the fact  
05:58PM 5 that Outlaws all over the country send him money. That's well  
05:58PM 6 documented by the fact that Outlaws who are out bad in  
05:59PM 7 Tennessee, after having pled guilty with the government, are  
05:59PM 8 begging him to get back in the club.

05:59PM 9 That's well documented by the fact that he's got law  
05:59PM 10 enforcement paperwork from cases in Florida, Virginia,  
05:59PM 11 references to cases in Milwaukee, Pennsylvania, all over the  
05:59PM 12 place. He is sending from a regional president in the Blue  
05:59PM 13 Region in Ohio to the national presidency.

05:59PM 14 He's not racist, yet he signed a giant swastika flag that  
05:59PM 15 hangs prominently in the Outlaws clubhouse that he controls.  
05:59PM 16 He's worked at Pharaoh's for 10 years. That indictment spans  
06:00PM 17 from 2005 to 2019. So, he's been there almost the whole time  
06:00PM 18 for a very good chunk of the time that it's been maintained as  
06:00PM 19 a drug premises as alleged in the federal indictment.

06:00PM 20 That there's been sex trafficking occurring there as  
06:00PM 21 alleged in the federal indictment, and that there's been  
06:00PM 22 Outlaws selling drugs in there as will be shown at a federal  
06:00PM 23 trial.

06:00PM 24 The clear nexus between his club and him and that club --  
06:01PM 25 that employment, is evident. There have been reports of him

06:01PM 1 smashing a woman's face off of a bar, and her showing up with  
06:01PM 2 a black eye after having visited the clubhouse. There are  
06:01PM 3 reports of people observing him assault people, at least one  
06:01PM 4 person, inside the clubhouse. And people don't even hit him  
06:01PM 5 back because they know who he is. That's just common sense.

06:01PM 6 Now, he's a hunter yet, he didn't have a -- I didn't see a  
06:01PM 7 picture of a deer anywhere. There wasn't a head of a deer on  
06:01PM 8 the wall of his house. There was the flag was Brazil for the  
06:01PM 9 chapter that he opened with signatures on it that appears in  
06:01PM 10 his house. There was Outlaws paraphernalia prominently  
06:01PM 11 displayed in his residence, and there was a literal shrine to  
06:02PM 12 Taco Bowman who died in federal prison after being convicted  
06:02PM 13 of racketeering murder, not deer heads.

06:02PM 14 THE COURT: But aren't all those type of  
06:02PM 15 paraphernalia governed under the First Amendment?

06:02PM 16 MR. TRIPI: It doesn't mean they don't inform this  
06:02PM 17 Court of the mindset, of the dangerousness --

06:02PM 18 THE COURT: No, I understand that, but it's also, the  
06:02PM 19 Court understands, the First Amendment says that's an  
06:02PM 20 expression of speech.

06:02PM 21 MR. TRIPI: And the speech that they're saying is  
06:02PM 22 telling.

06:02PM 23 THE COURT: We're just talking about things on the  
06:02PM 24 wall.

06:02PM 25 MR. TRIPI: Yeah.

06:02PM 1 THE COURT: My understanding is that there's case law  
06:02PM 2 from the United States Supreme Court on down that's indicia of  
06:02PM 3 expression of speech which is covered and protected under the  
06:03PM 4 First Amendment.

06:03PM 5 MR. TRIPI: And also, it's free speech to say  
06:03PM 6 snitches are a dying breed. But it's also, under the hearsay  
06:03PM 7 rules, statement of future intent, potentially and admissible  
06:03PM 8 conduct. So, all I'm saying is, language matters. The  
06:03PM 9 language they're using say they kill informants.

06:03PM 10 And you signed a search warrant related to the death of a  
06:03PM 11 federal witness. Those are the facts. And that witness who  
06:03PM 12 expressed fear of Outlaws is dead. And Peter Gerace had  
06:03PM 13 suppressed a sentiment, a belief, that that witness was  
06:03PM 14 responsible for his detention. Peter Gerace had expressed a  
06:03PM 15 sentiment that he had long -- he had serious people who could  
06:03PM 16 tie up his loose ends. Ms. Quinn was a loose end, as it  
06:03PM 17 related to Peter Gerace.

06:04PM 18 Serious people are sitting in your courtroom, the national  
06:04PM 19 president of the Outlaws, who has the power to command  
06:04PM 20 legions. And just eight days after Crystal Quinn was outed  
06:04PM 21 during a proffer, much like this, in this federal courthouse,  
06:04PM 22 this defendant visited Peter Gerace. Within months, she was  
06:04PM 23 dead. And within days of her being dead, she was texting fear  
06:04PM 24 of the bikers. The people had the motive to kill her. One of  
06:04PM 25 them is sitting in your courtroom. We believe they should be

06:04PM 1 detained.

06:04PM 2 MR. MUSCATO: We don't have anything additional, Your  
06:04PM 3 Honor. Thank you.

06:04PM 4 THE COURT: All right. I want to emphasize this  
06:05PM 5 proceeding was limited strictly to a detention hearing. I'm  
06:05PM 6 not here, nor is it my role, to be involved in the  
06:05PM 7 determination of guilt or innocence of the charges, which are  
06:05PM 8 pending against the defendant in a criminal complaint. My  
06:05PM 9 role is to determine whether the government has provided  
06:05PM 10 sufficient information and evidence to support its motion to  
06:05PM 11 have this defendant detained based on the charges he is  
06:05PM 12 presently charged with.

06:05PM 13 The defendant is charged in a criminal complaint, not an  
06:05PM 14 indictment, with the following: That on or about the date of  
06:05PM 15 December 7 th, 2023, in the County of Erie, in the Western  
06:06PM 16 District of New York, the defendant, John Thomas Ermin, a/k/a  
06:06PM 17 Tommy O. did possess firearms while being an unlawful user of  
06:06PM 18 controlled substances in violation of Title 18, United States  
06:06PM 19 Code, Section 922(g)(3).

06:06PM 20 Title 18, 922(g)(3) reads as follows, quote, it shall be  
06:06PM 21 unlawful for any person who is an unlawful user of or addicted  
06:06PM 22 to any controlled substance as defined in Section 102 of the  
06:06PM 23 Controlled Substances Act, 21 USC 802. That's the charge that  
06:07PM 24 the defendant faces; nothing more as far as this document is  
06:07PM 25 concerned; nothing more as far as this proceeding is



06:07PM 1 concerned.

06:07PM 2 So, the question is, taking into account the nature of  
06:07PM 3 that charge, in the context of the defendant's constitutional  
06:07PM 4 right to seek bail, and taking into account his constitutional  
06:07PM 5 presumption of innocence, as well as the Bail Reform Act of  
06:07PM 6 1984 as amended presumption of innocence, weighing that  
06:07PM 7 against what the government has presented in support of its  
06:07PM 8 most to have the defendant detained.

06:08PM 9 A lot of what I've heard from the government, basically,  
06:08PM 10 does not relate to the charge in the complaint. I didn't hear  
06:08PM 11 anything of substance or detail about how, and in what way,  
06:08PM 12 and how much the defendant unlawfully uses drugs or a  
06:08PM 13 substance in violation of 922(g)(3).

06:08PM 14 I heard a great deal of detail about things related to a  
06:08PM 15 presently-pending indictment against other individuals in the  
06:08PM 16 context of an establishment frequently referred to as  
06:09PM 17 Pharaoh's Gentlemen's Club and two named defendants in that  
06:09PM 18 case, Gerace and Bongiovanni.

06:09PM 19 But, once again, the only reference to the defendant in  
06:09PM 20 the context of that club was that he works there and he was a  
06:09PM 21 manager as well as, apparently, members of the clubs or groups  
06:09PM 22 that he belongs to, like the motorcycle club, either worked  
06:09PM 23 there or go there.

06:09PM 24 The issue, for me, is in the context of this limited  
06:09PM 25 charge; that is, the defendant allegedly being in violation of

06:09PM 1 Title 18, United States Code, Section 922(g)(3), is whether  
06:10PM 2 there are terms and conditions that I can impose that would  
06:10PM 3 allow for the release of the defendant in keeping with his  
06:10PM 4 constitutional right to bail, or whether I cannot reasonably  
06:10PM 5 arrive at terms and conditions that would either prevent the  
06:10PM 6 defendant from flight or constituting an danger to the  
06:10PM 7 community or members of the community.

06:10PM 8 On the issue of flight, the fact that there are a number  
06:10PM 9 of organizations throughout the United States and throughout  
06:10PM 10 the world that are motorcycle clubs and they have a common  
06:10PM 11 relationship doesn't necessarily automatically cause one to  
06:11PM 12 conclude that a member of one of those clubs becomes a risk of  
06:11PM 13 flight. I guess the same argument could be made by the Boy  
06:11PM 14 Scouts, another type of international organization.

06:11PM 15 As to a danger to the community, it's almost an argument  
06:11PM 16 of guilt by association; the association being somehow  
06:11PM 17 associated with the defendants in the Pharaoh's case by reason  
06:11PM 18 of the fact that he worked there and that he and other members  
06:11PM 19 of his motorcycle club attend there at times or that, as  
06:11PM 20 defense counsel pointed out, he went to his employer's home at  
06:11PM 21 a party.

06:11PM 22 I don't think we've come to that point in our society  
06:11PM 23 where we can use that kind of concept of guilt by association  
06:12PM 24 or dangerousness by association in and of itself or with  
06:12PM 25 nothing more.

06:12PM 1 I do also note that the weapons depicted in the exhibits,  
06:12PM 2 I didn't see anything that resembled an AK-47 or one of the  
06:12PM 3 more lethal weapons that, unfortunately, our society has been  
06:12PM 4 experiencing in recent times constituting true weapons and  
06:12PM 5 constituting true instruments of dangerousness.

06:12PM 6 The photographs showing different insignia-type patches  
06:12PM 7 and signs and banners, maybe they're reprehensible in what  
06:13PM 8 they depict and what they advocate, but, once again, my  
06:13PM 9 understanding of the First Amendment is that they fall within  
06:13PM 10 the protection of that First Amendment as expressions of free  
06:13PM 11 speech. And they certainly don't seem to have a relationship  
06:13PM 12 to the charge in the criminal complaint, which is what I'm  
06:13PM 13 focusing on, a violation of Title 18, United States Code,  
06:13PM 14 Section 922(g) (3).

06:13PM 15 So, when I take all of that and consider it in its  
06:13PM 16 totality, and then examine the history of the defendant in the  
06:13PM 17 context of a criminal history, the Pretrial Services report  
06:13PM 18 indicates that the only criminal history that it is aware of  
06:14PM 19 and reports to the Court, is something that allegedly occurred  
06:14PM 20 in 2018 involving a charge of disorderly conduct, a  
06:14PM 21 misdemeanor, for which the defendant was sentenced to good  
06:14PM 22 time, and to have no contact with the victim involved. And  
06:14PM 23 also, a charge of simple assault, a physical contact or B1  
06:14PM 24 misdemeanor in Pennsylvania -- or New Hampshire, I'm sorry.  
06:14PM 25 New Hampshire. I'm sorry. I've got the wrong -- that's

06:14PM 1 Mr. Barnes. So, I stand corrected.

06:14PM 2 I'm now looking at the Pretrial Services report for John  
06:15PM 3 Ermin, which is an updated report from what I originally had.  
06:15PM 4 And, in that Pretrial Services report, it states, quote, under  
06:15PM 5 the heading prior record, New York State and FBI criminal  
06:15PM 6 record checks were conducted which revealed no prior record  
06:15PM 7 for this defendant; this defendant being John Thomas Ermin.

06:15PM 8 On the issue of flight, there are terms and conditions  
06:15PM 9 that I can impose that substantially reduce that risk if there  
06:16PM 10 is such a risk. One, it's the surrender of any passport or  
06:16PM 11 any documents that would enable the defendant to travel in  
06:16PM 12 international travel; two, electronic monitoring, which would  
06:16PM 13 enable the probation authorities to know at all times where  
06:16PM 14 the defendant is and a prohibition that the defendant apply  
06:16PM 15 for any passports or any other form of travel document that  
06:16PM 16 would allow for international travel. So, I don't see flight  
06:16PM 17 as a major concern as far as the ability of the Court to  
06:16PM 18 impose a term and condition that could address that.

06:16PM 19 As to the issues of dangerousness, once again, the charge  
06:17PM 20 is a charge that is a personal charge against this defendant  
06:17PM 21 involving the defendant allegedly using marijuana. And,  
06:17PM 22 because he used marijuana, he was not permitted to possess any  
06:17PM 23 weapons, and he was found to have weapons in his house. It  
06:17PM 24 doesn't automatically follow that that's scenario means he's a  
06:17PM 25 danger to the community and members of the community. It just

mean he's allegedly committed a prohibited act of possessing something, not going out and doing something.

So, once again, I bring that information in under the umbrella of total circumstances to be considered, and I can impose terms and conditions which can address that. The weapons are to be removed. There are to be no possession of any additional weapons. The electronic monitoring will indicate the whereabouts of the defendant and whatever else I choose to impose as a term and condition.

So, in balancing the concern of the government, as it has represented, of the defendant being a danger and a flight, with the constitutional right of the defendant, constitutional right of being presumed innocent of this charge, and the constitutional right of the defendant to be released on bail, I find that those constitutional rights substantially outweigh the speculative proffer of what the government puts forth as to the danger that the defendant stands for in the context of this charge.

And, therefore, I have concluded that if I'm to give the proper deference to the Constitution and the application of those principles in the Constitution as well as in the Bail Reform Act, I find that there are conditions that I can impose that will also allow for the continued full enjoyment of the defendant's constitutional right of presumed to be intent rather than being detained in a jail facility before this

06:20PM 1 case, whatever, be brought to trial.

06:20PM 2 And we know, based on the case frequently cited by the  
06:20PM 3 government, the Pharaoh's case and based on what has been  
06:20PM 4 reported as recently as yesterday or the day before, that  
06:20PM 5 case, the trial of that case, appears it's going to be delayed  
06:20PM 6 once again. So, it's going to be a number of years before we  
06:20PM 7 have any type of finality in this litigation. That would  
06:20PM 8 trouble me. That does trouble me that someone would be locked  
06:20PM 9 up who was presumed innocent on the charge of having violated  
06:20PM 10 Title 18 of the United States Code, Section 922(g)(3).

06:20PM 11 So, for all of those reasons, I'm denying the government's  
06:20PM 12 motion. I am releasing the defendant on bail subject to the  
06:21PM 13 following terms and conditions and I want you to listen  
06:21PM 14 closely, Mr. Ermin, because, should you fail to obey, or  
06:21PM 15 should you violate any one of those terms and conditions, that  
06:21PM 16 can result in your bail being revoked, and your being locked  
06:21PM 17 up and kept locked up until this matter is completed. Do you  
06:21PM 18 understand?

06:21PM 19 THE DEFENDANT: I understand, sir.

06:21PM 20 THE COURT: I am hereby making the defendant subject  
06:21PM 21 to the supervision and authority of the United States  
06:21PM 22 Probation Office. And what that means is you must obey and  
06:21PM 23 carry out and follow through with every reasonable directive  
06:21PM 24 given to you by a member of that office. Should you fail to  
06:21PM 25 do so, that can result in your bail being revoked and your

06:21PM 1 being locked up and kept locked up until this matter is  
06:21PM 2 completed. Do you understand?

06:21PM 3 THE DEFENDANT: I understand.

06:21PM 4 THE COURT: You are hereby required to surrender any  
06:21PM 5 passports or enhanced driver's licenses or any other form of  
06:22PM 6 documentation that would allow you to travel internationally.  
06:22PM 7 And, while this case is pending, you are not to apply for  
06:22PM 8 renewal of any passports or any other type of documents that  
06:22PM 9 would allow you to travel internationally.

06:22PM 10 You are hereby placed on electronic monitoring. And the  
06:22PM 11 method of monitoring I leave to the discretion of the United  
06:22PM 12 States Probation Office, but that will be monitoring that will  
06:22PM 13 be active 24 hours a day. As part of that, you are not to  
06:22PM 14 tamper with, in any fashion, the effectiveness of that  
06:22PM 15 monitoring. Should it be determined that there has been  
06:23PM 16 tampering or interference with that monitoring in any way,  
06:23PM 17 that can result in your bail being revoked, and your being  
06:23PM 18 locked up and kept locked up until this matter is completed.  
06:23PM 19 Do you understand?

06:23PM 20 THE DEFENDANT: I do, sir.

06:23PM 21 THE COURT: Your travel is hereby restricted to the  
06:23PM 22 Western District of New York. You are not to travel outside  
06:23PM 23 the Western District of New York unless you have received  
06:23PM 24 permission from the Court and/or the US Probation Office to  
06:23PM 25 undertake such travel. And before that permission would be

1 granted, you must make full disclosure as to reason for the  
2 travel, what your complete itinerary would be, and any other  
3 information the probation Office requests of you in that  
4 regard.

5 You are hereby required to remain at a verifiable address  
6 as approved by the Pretrial Services Unit of the US Probation  
7 Office. You are also required to avoid all contact with co-  
8 defendants and/or defendants in the related cases unless such  
9 contact is first approved by the US Probation Office.

10 And when I talk about related cases, obviously, as the  
11 government has indicated, it would involve the cases of all  
12 the people that have either been named as defendants or, in  
13 some other form, related to the case of the United States of  
14 America v. Mr. Gerace and Mr. Bongiovanni, and anybody else  
15 associated with the Pharaoh's Gentlemen's Club.

16 You are hereby prohibited from possessing or having access  
17 to any firearms or destructive devices. In addition to the  
18 firearms that were described in the government's presentation  
19 any other weapons or firearms or destructive devices that you  
20 have or have access to, you must make that known to your  
21 attorney.

22 And, Mr. Muscato, I direct you, as an officer of the Court  
23 to then meet with counsel for the government so that  
24 appropriate arrangements can be made for the surrender and  
25 safekeeping of same while this matter is pending.



06:25PM 1 MR. MUSCATO: Yes, Your Honor.

06:25PM 2 THE COURT: You were also required to refrain from  
06:25PM 3 drinking any alcohol. No drinking whatsoever. You are also  
06:25PM 4 hereby prohibited from using or possessing any unlawful  
06:25PM 5 narcotic drug or substance.

06:26PM 6 MR. MUSCATO: Your Honor, with respect to narcotic  
06:26PM 7 drugs, does the Court mean that would be other than prescribed  
06:26PM 8 by his physician?

06:26PM 9 THE COURT: I was going to go to that next.

06:26PM 10 MR. MUSCATO: I apologize for interrupting.

06:26PM 11 THE COURT: You are hereby prohibited from possessing  
06:26PM 12 any legal drug or substance. Even if it's considered legal  
06:26PM 13 under the laws of the United States or the State of New York,  
06:26PM 14 unless that legal drug or substance is in the form of medicine  
06:26PM 15 that has been prescribed for you personally by a duly licensed  
06:26PM 16 physician licensed by the State of New York to treat you  
06:26PM 17 personally for a medical condition.

06:26PM 18 So, even through it might be considered a legal drug or  
06:26PM 19 substance, under either the federal law or the state laws of  
06:26PM 20 New York, unless it is in the form of medicine prescribed for  
06:26PM 21 you personally by a physician to treat you for a medical  
06:26PM 22 condition, you are not to have it in your possession, and you  
06:26PM 23 are not to use it.

06:26PM 24 Once again, needless to say, but nevertheless necessary to  
06:27PM 25 say, you are not to have in your possession and you are not to

1 use any illegal drug or substance. Now that raises the  
2 question, perhaps, of, well, marijuana is legal under the laws  
3 of the State of New York. The federal government still has on  
4 its books marijuana as a controlled substance which is not  
5 legal. But if it is prescribed by a duly-licensed physician  
6 license in the State of New York, that prescription will  
7 prevail but only that prescription.

8 MR. TRIPI: We object to that, Your Honor.

9 THE COURT: You can object to all of it when I get  
10 done.

11 MR. TRIPI: That's fine.

12 THE COURT: In addition, you will be required to  
13 submit to drug and/or alcohol testing and/or treatment for  
14 same as determined and directed by the US Probation Office and  
15 you will be required to contribute towards the cost of that  
16 service in the form of a co-payment, the amount of which will  
17 be determined and directed by the US Probation Office.

18 As part of that, you are hereby prohibited from  
19 obstructing or attempting to obstruct or tamper with, in any  
20 fashion, the efficiency and accuracy of any prohibited  
21 substance testing which is carried out.

22 You are also required to report any contact you have with  
23 any law enforcement personnel for any reason whatsoever, be it  
24 something as minor as a vehicle and traffic violation, or for  
25 any other reason. And that report must be made within 72

06:28PM 1 hours after the contact has occurred, and it must be made to  
06:28PM 2 the United States Probation Office.

06:28PM 3 Upon completion of any additional processing by either the  
06:29PM 4 US Marshal Service and/or the US Probation Office, the  
06:29PM 5 defendant is to be released subject to all of the terms and  
06:29PM 6 conditions as I have stated them to be. I am requiring the  
06:29PM 7 surrender of the passport, whatever passport there may be, and  
06:29PM 8 any other document such as enhanced driver's licenses or any  
06:29PM 9 other form of documentation that allows for international  
06:29PM 10 travel to be surrender to the Clerk of the Court no later than  
06:29PM 11 12 p.m. December the 13th, 2023.

06:29PM 12 MR. MUSCATO: That time?

06:29PM 13 THE COURT: Twelve p.m. Anything further,  
06:29PM 14 Mr. Probation Officer?

06:29PM 15 PO. EMERSON: Judge, we'd also recommend that he  
06:29PM 16 submit to a mental health evaluation and/or treatment.

06:29PM 17 THE COURT: I think you did have that, did you not?  
06:30PM 18 No, but I'll impose that. You'll be required to undergo a  
06:30PM 19 mental health evaluation as determined and directed by the US  
06:30PM 20 Probation Office.

06:30PM 21 PO. EMERSON: Judge, we'd also ask that we be given  
06:30PM 22 time to do a home inspection prior to his release.

06:30PM 23 THE COURT: For the electronic monitoring?

06:30PM 24 PO. EMERSON: Yes.

06:30PM 25 THE COURT: Right. Because I ordered electronic

06:30PM 1 monitoring, the US Probation Office must first inspect the  
06:30PM 2 residence at which you will be staying. That's the verifiable  
06:30PM 3 residence and in order to determine that that residence will  
06:30PM 4 be accommodating for the electronic monitoring. So, the  
06:30PM 5 Probation Office, obviously, will need a little bit of time to  
06:30PM 6 do that so your release will not be immediate. It will  
06:30PM 7 probably occur within the next day or so.

06:30PM 8 THE DEFENDANT: I understand.

06:30PM 9 THE COURT: So, the Probation Office can undertake  
06:30PM 10 that. Anything else?

06:31PM 11 PO. EMERSON: No, Judge. Thank you.

06:31PM 12 THE COURT: All right.

06:31PM 13 MR. TRIPI: May I be heard Your Honor? Are you done?

06:31PM 14 THE COURT: Just only asking Mr. Muscato does the  
06:31PM 15 defendant waive his right to a preliminary hearing?

06:31PM 16 MR. MUSCATO: Yes, Your Honor.

06:31PM 17 THE COURT: Mr. Tripi?

06:31PM 18 MR. TRIPI: Thank you, Your Honor. Just a couple of  
06:31PM 19 things. One of the conditions you ordered was electronic  
06:31PM 20 monitoring, the method to be determined by Probation. I  
06:31PM 21 understand that part of it, I believe, but you didn't specify  
06:31PM 22 if you're ordered home confinement or curfew.

06:31PM 23 THE COURT: I wasn't ordering home confinement.

06:31PM 24 MR. TRIPI: Okay. So, is that --

06:31PM 25 THE COURT: It's up to the Probation Office what they

06:31PM 1 want to do as far as hours.

06:31PM 2 MR. TRIPI: So, you're imposing a curfew then?

06:31PM 3 THE COURT: Probation Office had the authority to. I  
06:32PM 4 started off by saying he would be subject to the supervision  
06:32PM 5 and authority of the US Probation Office.

06:32PM 6 MR. TRIPI: Okay. The other, I guess, objection --  
06:32PM 7 and I jumped the gun earlier. I apologize for that. Is that  
06:32PM 8 I believe the judicial authorization federally of even medical  
06:32PM 9 marijuana would violate federal law. So, I'd ask the Court to  
06:32PM 10 reconsider that condition.

06:32PM 11 THE COURT: I understand that, but I also take note  
06:32PM 12 from what, I believe, has now been publicly stated by US  
06:32PM 13 Attorneys throughout the country as far as those states that  
06:32PM 14 have legalized marijuana, they're not prosecuting for personal  
06:32PM 15 use.

06:32PM 16 MR. TRIPI: I think that's, perhaps, different than  
06:33PM 17 authorizing medical marijuana to be used.

06:33PM 18 THE COURT: Well, medical marijuana is for personal  
06:33PM 19 use pursuant to the prescription, and that's what I said. It  
06:33PM 20 was governed by the prescription.

06:33PM 21 MR. TRIPI: But, in other words, he doesn't have one  
06:33PM 22 of those now. So --

06:33PM 23 THE COURT: No, until he gets it.

06:33PM 24 MR. TRIPI: If he were to get out and get one, it's  
06:33PM 25 clearly just so he can smoke weed. That's my point.

06:33PM 1 THE COURT: You then have to anticipate a doctor is  
06:33PM 2 going to just write one willy nilly.

06:33PM 3 MR. TRIPI: Stranger things have happened. I've  
06:33PM 4 prosecuted doctors, too, so.

06:33PM 5 THE COURT: I understand. There's also a lot of  
06:33PM 6 decent, innocent doctors that say --

06:33PM 7 MR. TRIPI: I understand.

06:33PM 8 THE COURT: -- marijuana is a way of controlling  
06:33PM 9 pain.

06:33PM 10 MR. TRIPI: Okay. The other things, I have a couple  
06:33PM 11 of additional requests for the Court to consider. I'd ask  
06:33PM 12 that he be prohibited from contacting other members of the  
06:34PM 13 Outlaws or visiting the Outlaws clubhouse.

06:34PM 14 THE COURT: Denied because, once again, I'm not going  
06:34PM 15 to have guilt by association.

06:34PM 16 MR. TRIPI: I'd ask that he be prohibited from  
06:34PM 17 attended Pharaoh's or being at Pharaoh's Gentlemen's Club.

06:34PM 18 THE COURT: Denied. He's got a constitutional right  
06:34PM 19 rate to visit public places.

06:34PM 20 MR. TRIPI: I'd ask that he have no contact with  
06:34PM 21 members of the Black Pistons Motorcycle Club.

06:34PM 22 THE COURT: Denied. That's, once again, guilt by  
06:34PM 23 association.

06:34PM 24 MR. TRIPI: Association is an element of a  
06:34PM 25 racketeering conspiracy.

06:34PM 1 THE COURT: But he's not charged with that.

06:34PM 2 MR. TRIPI: I understand that.

06:34PM 3 THE COURT: That's why I emphasize --

06:34PM 4 MR. TRIPI: I'm making my record.

06:34PM 5 THE COURT: Please. I emphasized I was making my  
06:34PM 6 decision focused solely on the charge in this case, violation  
06:34PM 7 of Title 18, Section 922(g)(3).

06:34PM 8 MR. TRIPI: I'm just making my record, Judge. I'd  
06:35PM 9 ask that he have no contact with employee at Pharaoh's  
06:35PM 10 Gentlemen's Club past or present.

06:35PM 11 THE COURT: Denied. Once again, that's guilt by  
06:35PM 12 association.

06:35PM 13 MR. TRIPI: And Judge, we would ask -- we're going to  
06:35PM 14 appeal the decision. We would ask for a 24-hours stay. I  
06:35PM 15 know you've ordered a home inspection, but we'd ask for a  
06:35PM 16 stay.

06:35PM 17 THE COURT: I'll give you a 24-hour stay only because  
06:35PM 18 I'm giving the Probation Office a day within which to conduct  
06:35PM 19 the feasibility of the residence for electronic monitoring.

06:35PM 20 MR. TRIPI: So, the stay will last until 4:30, 5 p.m.  
06:35PM 21 tomorrow?

06:35PM 22 THE COURT: Correct.

06:35PM 23 MR. TRIPI: Thank you, Your Honor. I don't have  
06:35PM 24 anything else on this.

06:35PM 25 THE COURT: On that point, I understand you took an

06:35PM 1 appeal from my --

06:35PM 2 MR. TRIPI: Which one?

06:35PM 3 THE COURT: Non-decision in Roncone.

06:35PM 4 MR. TRIPI: Oh. We never filed the stay. We were

06:35PM 5 ready to.

06:35PM 6 THE COURT: I've got something in writing that says

06:35PM 7 there was appeal.

06:35PM 8 MR. TRIPI: We withdraw it.

06:35PM 9 THE COURT: Oh?

06:36PM 10 MR. TRIPI: We were getting prepared to file it but

06:36PM 11 we withdrew it.

06:36PM 12 THE COURT: You did more than that. You filed it.

06:36PM 13 It was withdrawn.

06:36PM 14 MR. TRIPI: Oh, okay. Well, I guess we jumped the

06:36PM 15 gun.

06:36PM 16 THE COURT: All I'm saying.

06:36PM 17 MR. TRIPI: I guess we jumped the gun.

06:36PM 18 THE COURT: Yes, you did.

06:36PM 19 MR. TRIPI: The AUSA left during the appearance.

06:36PM 20 THE COURT: Pardon me?

06:36PM 21 MR. TRIPI: The AUSA left during the appearance left

06:36PM 22 to file it during the appearance while you were ordering it.

06:36PM 23 THE COURT: Well, it shows you shouldn't act

06:36PM 24 prematurely.

06:36PM 25 MR. TRIPI: In any event, Judge, it was the end of



06:36PM 1 the day, so I apologize.

06:36PM 2 THE COURT: That's no excuse. I had the same long  
06:36PM 3 day. In fact, I was signing things last night or when we were  
06:36PM 4 doing that hearing.

06:36PM 5 MR. TRIPI: I get it. I'll apologize. But if there  
06:36PM 6 was no one here to accept the appeal, then we would have been  
06:36PM 7 boxed out. That's all. So, we apologize for that. I think  
06:36PM 8 that's all I have for this, Judge, unless the Court -- I  
06:36PM 9 believe you don't set a 48(b) date.

06:36PM 10 THE COURT: No. The clock will start running now as  
06:37PM 11 far as what the government needs to do under --

06:37PM 12 MR. TRIPI: We understand.

06:37PM 13 THE COURT: -- the Speedy Trial Act.

06:37PM 14 MR. TRIPI: We got it. Thank you.

06:37PM 15 THE COURT: Thank you.

06:37PM 16 (Proceedings concluded.)

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CERTIFICATE OF TRANSCRIBER

In accordance with 28, USC, 753(b), I certify that this is a true and correct record of the proceedings held in the United States District Court for the Western District of New York before Honorable Magistrate Judge H. Kenneth Schroeder, Jr., on December 12th, 2023.

s/ Megan E. Pelka, RPR

Megan E. Pelka, RPR

Transcriber